

JOYCE A. SMITH
ACTING DISTRICT ATTORNEY

RACKETS & ENTERPRISE CRIME
BUREAU

Rick Whelan, Chief



OFFICE OF THE DISTRICT ATTORNEY
NASSAU COUNTY

August 13, 2021

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 16 2021 ★

LONG ISLAND OFFICE

The Honorable Joanna Seybert
Senior United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: United States v. William Gace
Criminal Docket No. 19-258 (JS)

Dear Judge Seybert:

The People of the State of New York respectfully submit this letter with regards to the above referenced individual, who was sentenced before Your Honor on or about May 8, 2020. The Nassau County District Attorney's Office has been asked to conduct a Sex Offender Registration Act hearing on Mr. Gace pursuant to his move into Nassau County. For this hearing, the People have received the Sentencing Memo of the United States Attorney, filed with Your Honor on May 7, 2020 (attached herein as Exhibit 1). We have also received the Board of Examiners of Sex Offenders Recommendation Letter, filed with Nassau County Superior Court Judge, the Honorable Robert G. Bogle, on April 15, 2021 (attached herein as Exhibit 2). Both supporting documents cite a psychological evaluation conducted on Mr. Gace by First Light (*see* Exhibit 1, page 6, paragraph 2 and Exhibit 2, page 10, paragraph 1) which resulted in a diagnosis of paraphilia.

According to the Board of Examiners of Sex Offenders Risk Assessment Instrument, a criminal assessment that the offender has a psychological, physical, or organic abnormality that decreases ability to control impulsive sexual behavior is grounds for a presumptive override to a Level 3; a diagnosis of paraphilia by First Light would be one such criminal assessment. The People have attempted to view First Light's findings to use in our determination of Mr. Gace's sex offender level; however the United State's Attorney's Office does not have a copy in their file to share, his federal probation officer is prohibited from sharing any information with our office and First Light cannot honor the So Order Subpoena issued by Judge Bogle (attached herein as Exhibit 3).

As such, the People of the State of Nassau County are asking Your Honor to release the psychological reports, diagnoses, and sexual history polygraph test report to the Nassau County District Attorney's Office. The People believe this information is crucial in assessing Mr. Gace's risk level classification. Furthermore, the People will need to prove the facts to support our risk level classification by clear and convincing evidence with the best evidence possible. Arguably, the summary of First Light's findings by Assistant United States Attorney Castro in the Sentencing Memo (Exhibit 1) may be deemed reliable hearsay, and thereby admissible at hearing. Nevertheless, this potential diagnosis is so compelling and would have such a substantial effect on the risk assessment, that access to the original document would be necessitated to request such a serious override.

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Releasing these documents to the Nassau County District Attorney's Office would impart no harm to Mr. Gace, as he would already have access to his own medical records produced in connection with his underlying case, while withholding them would greatly prejudice and hinder the People in establishing the appropriate risk assessment level to counteract his risk to re-offend.

For the reasons set forth herein, the People request that the Court release to the Nassau County District Attorney's Office, the psychological reports, diagnoses and sexual history polygraph test report of William Gace from First Light.

Respectfully yours,

JOYCE A. SMITH
ACTING DISTRICT ATTORNEY

By:

ADA Melissa Scannell
Office of the District Attorney
Nassau County

Motion granted. The Court will send a copy of the psychological report, referenced above, to the Nassau County District Attorney's Office under separate mailing.

SQ ORDERED:

Joanna Seybert, Senior U.S.D.J.